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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,401	03/09/2004	Marc Radow	501120-014	5592

7590 11/22/2006

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EXAMINER

GROSSO, HARRY A

ART UNIT	PAPER NUMBER
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3781

DATE MAILED: 11/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/797,401	Applicant(s) RADOW, MARC	
	Examiner Harry A. Grosso	Art Unit 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 October 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>6/13/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 5-10 and 13-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Phalin (4,405,058).
3. Regarding claims 1 and 7, Phalin discloses a receptacle with a recessed portion (54, Figure 4, column 7, line 54 to column 8, line 9), raised portion (55) and a vertical outer wall (52).
4. Regarding claims 2 and 3, the raised portion is a closed continuous surface that is a dome.
5. Regarding claim 6, the recessed area has a flat surface (54, Figure 4).
6. Regarding claims 8 and 13, the receptacle is a drawn and ironed container of uniform diameter and, as such, the recessed portion, the raised portion and the outer wall portion would all extend substantially in a circle (column 9, lines 11-15).
7. Regarding claims 9 and 10, the outer wall portion extends upwardly a second distance at least twice the first distance that the raised portion extends upwardly.
8. Regarding claims 14, 15 and 17, Phalin discloses a receptacle with a closed body (Figure 4) having an upper rim (51), a vertical outer wall portion (52), a base portion with an upward facing flat surface (54) and a convex raised portion (55).

9. Regarding claims 16 and 18, the raised portion peaks below the upper rim and the outer wall portion extends above the raised portion (Figure 4).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 4, 5, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phalin.

12. Regarding claims 4 and 5, Phalin discloses the claimed invention except for the distance from the recessed portion to the top-most portion of the raised portion being three quarter inch, which is greater than approximately 1/2 inch. It would have been an obvious matter of design choice to have made the distance from the recessed portion to the top-most portion of the raised portion three quarter inch, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

13. Regarding claims 11 and 12, Phalin discloses the claimed invention except for the second distance being approximately twice the first distance or two inches. It would have been an obvious matter of design choice to have made the second distance either approximately twice the first distance or two inches, since such a modification would have involved a mere change in the size of a component. A change in size is generally

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recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

14. Claims 19 and 20 rejected under 35 U.S.C. 103(a) as being unpatentable over Biggins (4,042,143) in view of Phalin.

15. Regarding claim 19, Biggins discloses a round container (Figures 1-2) with an upper rim (6), a vertical outer wall portion (3), a base portion with a flat surface facing upwardly (15), a raised portion extending inwardly from the base portion (14), and a round rimming dish (8) having a recessed area and a raised area of a size to allow manual grasping of the raised area.

16. Biggins does not teach that the raised portion of the container extends substantially constantly upwardly toward a center of the receptacle. Phalin discloses a similar container and a convex raised portion extending inwardly from the base portion and substantially constantly upwardly toward a center of the receptacle (Figure 4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a convex raised portion extending substantially constantly upwardly toward a center of the receptacle as disclosed by Phalin in the receptacle disclosed by Biggins since it is known in the art that a raised portion of this configuration will provide increased strength against internal force pressing down on the raised portion.

17. Regarding claim 20, Biggins discloses a lid sized to fit over the container rim (7),

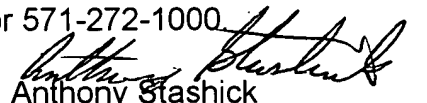
Conclusion

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mandler et al (5,573,698), Mandler et al (5,474,184), Woodley (4,184,444) and Wanderer (3,349,941) disclose elements of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry A. Grosso whose telephone number is 571-272-4539. The examiner can normally be reached on Monday through Thursday from 7am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Anthony Stashick
Supervisory Patent Examiner
Art Unit 3781

hag
